

United States District Court
For the Northern District of California

1
2
3
4
5

6 IN THE UNITED STATES DISTRICT COURT

7
8
9

FOR THE NORTHERN DISTRICT OF CALIFORNIA

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

B & R SUPERMARKET, INC.; GROVE
LIQUORS, LLC,

No. C 16-01150 WHA

Plaintiffs,

v.

**ORDER RE MOTIONS TO
DISMISS**

VISA, INC.; VISA USA, INC.;
MASTERCARD INTERNATIONAL,
INC.; AMERICAN EXPRESS
COMPANY; DISCOVER FINANCIAL
SERVICES; BANK OF AMERICA, N.A.;
BARCLAYS BANK DELAWARE;
CAPITAL ONE FINANCIAL
CORPORATION; CHASE BANK USA,
N.A.; CITIBANK (SOUTH DAKOTA),
N.A.; CITIBANK, N.A.; PNC BANK,
N.A.; USAA SAVINGS BANK; U.S.
BANCORP, N.A.; WELLS FARGO
BANK, N.A.; EMVCo, LLC; JCB CO.,
LTD; and UNIONPAY, a Chinese bank
association,

Defendants.

/

Rather than rule on the operative complaint, the motions to dismiss will be deemed as
moot and plaintiffs will be given, as requested, leave to file a further amended complaint no
later than **JULY 15, 2016**. Plaintiffs must plead their best case. The new complaint should
address the arguments raised in the motions to dismiss and add all reliable and well-pled
information to support their claims. In addition to the above, plaintiffs should also add specific
details regarding the following:

United States District Court
For the Northern District of California

- 1 1. The way that the card systems worked (before and after), including the way
2 transactions were authorized; the way money flowed; the way chargebacks
3 flowed; and the specific role of each defendant in each such event, including
4 decision-making.
- 5 2. The network rules that existed *before* and *after* the liability shift took place,
6 including specific quotations.
- 7 3. The specific law (U.C.C.?) and/or network agreements that controlled
8 chargebacks.

9 If American Express is meanwhile transferred to New York, the new pleading must take
10 that development into account.

11 This order declines to add new plaintiffs at this time. The amended complaint, however,
12 may include them and allegations for their best possible cases. Separate motions should be filed
13 to request intervention by the proposed plaintiffs. Intervention possibly will be allowed if the
14 new complaint is viable.

15 Defendants shall have twenty-one days after the filing of the amended complaint to file
16 a motion to dismiss.

17 **IT IS SO ORDERED.**

18 Dated: June 24, 2016.


WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE

21
22
23
24
25
26
27
28